

# OUT OF THE SHADOWS?

*The fall and rise of social value in public services: a progress report*

October 2013



## Acknowledgements

This report was written by Dan Gregory. It builds on *The Shadow State*, a report written by Zoe Williams and Celia Richardson in 2012. With thanks to all the team and Board at Social Enterprise UK as well as the Government's Chief Procurement Officer Bill Crothers and his colleagues in the Cabinet Office and the Office for Civil Society, Ed Mayo from Co-operatives UK and Michelle Rigby from Social Firms UK. We would also like to thank Commissioner Barnier and those within the European Commission who are working to support the Social Business Initiative.

We would also like to thank all those who are taking forward the implementation of Chris White's Private Members' Bill, which subsequently became the Public Services (Social Value) Act 2012. We believe it has created an historic opportunity. We would like to thank and congratulate the leaders and teams across the country who are using the Act to excellent effect – creating real social value for the citizens they serve in local authorities including Liverpool, Birmingham, East Sussex, Durham, York and many other places.



## Introduction

Almost a year ago in our publication *The Shadow State*<sup>1</sup>, we explored how the public services industry affects all UK citizens, employs millions of people and moves billions of pounds around the economy. Successive governments have outsourced public services as diverse as waste management, children's homes and prisons, usually purchasing them from private companies.

The report concluded that the drive to outsource public services is gathering speed and a 'shadow state' is emerging. A small number of companies - or oligopolies - have gained large stakes in critically important public service markets, together with astonishing influence over how these markets work. Transparency and genuine accountability are often lacking and contracts can be heavily weighted in favour a handful of private providers and their shareholders, to the detriment of the taxpayer and service users. A few of these private providers have become 'too big to fail' - when they do, they simply go on to win more business, or taxpayers pick up the pieces. Even for those with a firm belief in the role of markets in public services, these are a long way from the markets we might hope to see, distributing services efficiently and effectively. In fact, many of the markets where public services are traded are widely agreed to be rigged, or even broken.

The consequences can be very serious for public service users, as outlined in *The Shadow State*. Yet public understanding of the extent to which services are delivered by private companies is sorely lacking. Most people have never heard of Atos or Serco<sup>2</sup>, for instance. The current market for outsourced public services is now worth approximately £100 billion<sup>3</sup>. This is at odds with the widely held view among citizens that it is unacceptable for shareholders to make a profit from running many public services<sup>4</sup>.

Our report, *The Shadow State*, made six recommendations:

- Strengthening the Public Services (Social Value) Act, which currently requires commissioners to consider social value in the procurement process for public service contracts
- Freedom of Information should be extended to companies delivering public services
- An independent oversight body should scrutinise contracting decisions and prevent unfair competition
- Performance under previous contracts should be explicitly weighed up as part of the decision-making process in procurement decisions
- Open book accounting should be rolled out for all public sector contracts worth more than £250,000
- Communities should have a role in the governance of the organisations delivering public services in order to help protect public funds

This progress report looks at what has changed in the market over the past year and how the shadows appear to be lengthening. But it also looks to the future and how - perhaps remarkably - policy changes are lighting the way for public services to move out of the shadows. The introduction of the Social Value Act, changes to EU procurement law, closer understanding between social enterprises, co-operatives, public servants and their unions and ideas such as a Public Service Users Bill offer promise that we are moving beyond 'peak profiteering' and putting social value back at the heart of our public services.

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<sup>1</sup> <http://www.socialenterprise.org.uk/advice-support/resources/the-shadow-state-report-about-outsourcing-public-services>

<sup>2</sup> [http://www.socialenterprise.org.uk/uploads/files/2012/12/the\\_shadow\\_state\\_3\\_dec1.pdf](http://www.socialenterprise.org.uk/uploads/files/2012/12/the_shadow_state_3_dec1.pdf)

<sup>3</sup> The Shadow State reported how it has been estimated at over £80 billion in 2011 and is expected to rise to £140 billion by 2014.

<sup>4</sup> [http://www.socialenterprise.org.uk/uploads/files/2012/12/the\\_shadow\\_state\\_3\\_dec1.pdf](http://www.socialenterprise.org.uk/uploads/files/2012/12/the_shadow_state_3_dec1.pdf)



## Summary

As public services are outsourced, stories and evidence continues to emerge of profit-motivated providers failing the public they should be serving. Against this backdrop, social enterprises are sometimes bucking the trend, picking up contracts and delivering social value in the face of fierce competition.

- In the children's care sector, the private sector runs 65% of residential homes but a third do not meet the Government's minimum quality standards, with privately owned care homes more likely to be rated as inadequate.
- In adult social care, where 1 in 3 patients in care homes fear physical abuse or harm, 65% of jobs are in the private sector where care workers are paid less than in the public or voluntary sectors.
- In the NHS, hundreds of tenders have emerged over the past year, with a host of private providers entering an 'arms race' to pick up billions of pounds worth of contracts.
- The UK now has the most privatised prison system in Europe, but the market is dominated by just three firms. Some of the providers have been dogged by tagging scandals, have been placed under investigation and services have been taken back into the public sector or tenders delayed following serious failings in provision.
- In Welfare to Work services, Atos's work has been deemed unacceptably poor and the Work Programme has continued to receive considerable criticism as it is failing to support those furthest from the labour market.

Yet there are encouraging examples where social value is being placed at the heart of our public services. Socially owned retirement villages, not-for-profit social enterprises winning contracts to deliver health and social care - sometimes even taking over where private providers have failed - and staff at probation trusts are considering social enterprise models as an alternative to pursuing a private profit motive.

Changes to public policy also offer hope, moving beyond a tired argument between public and private. First, the introduction of the Social Value Act and significant forthcoming changes to EU rules look set to favour a greater role for organisations with a social mission. Some emerging changes to EU law directly reflect the recommendations made by Social Enterprise UK in our report *The Shadow State*. For instance, they explicitly set out how social considerations can be taken into account in procurement and how poor performance under previous contracts can count against bidders. Most intriguingly, the new rules also enable public bodies to reserve the award of many health, social and cultural services contracts exclusively to social enterprises with a public service mission, which reinvest profits in pursuit of that objective, and are either employee, user or stakeholder owned or managed. This could herald an extremely significant change to procurement practice and Social Enterprise UK is proud to have influenced these emerging rules.

Second, more constructive engagement between trade unions and advocates of social enterprise is also opening up space for a greater role for independent asset-locked and mission locked staff-led social enterprises in public services. Third, and finally, ideas such as a Public Service Users Bill may start to give the beneficiaries of public services a greater say in decisions which affect them.

So while in practice, the shadows around public services seem to be darkening with each news story, in policy terms, there are a number of promising signs that public services might soon emerge from the shadows. This policy landscape is being shaped by a seemingly unlikely coalition across the political spectrum which suggests we might be moving beyond a tired conflict between 20th century concepts of public versus private and putting social value back at the heart of our public services.



## Are public services moving further into the shadows?

Since the publication of the Shadow State almost a year ago, the extent to which public services are increasingly being outsourced has become more apparent. At the same time, there have been more examples of profit-motivated providers failing the public they should be serving. As predicted in our report, the gathering speed of outsourcing has resulted in skids and spills that have caused embarrassment to Government and providers alike.

But since the publication of the report there have also been hints of a counter-revolution in public service markets. Most positively, voluntary organisations, social enterprises and co-operatives with a social mission are sometimes winning against the odds to pick up significant contracts in the face of fierce competition. In the next two sections we look at examples from both perspectives.

### Children's care

The Shadow State reported how the private sector now runs 65% of residential homes for children and that two of England's three biggest private providers of foster placements are owned by private equity firms. In September 2013, it emerged that a third do not meet the Government's minimum quality standards, including 63 privately owned children's care homes. Figures from Ofsted's statistical release in September 2013<sup>5</sup> suggest that privately run care homes had a higher proportion rated as 'inadequate' (7%), compared to local authority-run homes (6%) and those run by the voluntary sector (3%). One in three homes run by Advanced Childcare Limited - the largest private provider and owned by a US investment fund – failed to reach the standard deemed acceptable by the Department for Education, while going on to post profits after tax of £2.6 million. A third of those run by the second largest provider, Keys Childcare Limited, were also deemed unacceptable, while they made £1 million in profits last year.

### Adult social care

Last year, we reported how the adult social care industry - worth £17 billion per year - is dominated by private companies, with 65% of jobs in the private sector. In January 2013, the Adult Social Care Survey<sup>6</sup> found that 1 in 3 patients in care homes fear physical abuse or harm<sup>7</sup>. In March 2013, Castlebeck, which ran Winterbourne View, finally went into administration.

Research carried out by Leeds University for the Government's Low Pay Commission and published in August 2013<sup>8</sup> explains that while around half of all domiciliary care workers were employed on zero hours contracts, this figure rose to eight out of ten workers among those employed by private providers. Those working for public sector and non-for-profit (sic) providers generally have higher weekly pay compared to their private sector counterparts. The report also noted concerns that contractual arrangements would lead to concentration of supply in the market and that smaller providers would not be able to survive.

However, the Crystal Fountain retirement home in Stroud perhaps offers some inspiration for the management of elderly care, where residents have come together through a mutual model to buy the freehold of a 73 home complex, previously run by a private company that went into liquidation three years ago. This could pave the way for similar mutually and socially owned models across a wider range of adult social care services.

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<sup>5</sup> <http://www.ofsted.gov.uk/resources/official-statistics-childrens-social-care-inspections-and-outcomes>

<sup>6</sup> <http://www.hscic.gov.uk/catalogue/PUB11176>

<sup>7</sup> <http://www.dailymail.co.uk/news/article-2257703/Scandal-neglect-Britains-care-homes-NHS-survey-63-000-elderly-residents-reveals-living-fear-abuse.html>

<sup>8</sup> <https://www.gov.uk/government/publications/national-minimum-wage-impact-on-the-domiciliary-care-sector>



## Health care

In July, the full scale of the impact of the NHS reforms began to take hold as 160 new contracts worth £5 billion<sup>9</sup> came up for grabs, including hospital, mental health and community services. Following the award last year of a £140 million contract to Serco to deliver community services in Suffolk, more NHS services are going out to tender. Christian Mazzi, from Bain Consulting describes this as an “arms race”, while William Laing, another health sector analyst calls it a “land grab”. Cambridgeshire will see the biggest contract award so far, for the delivery of older people’s services, worth up to £1.2 billion. Ten bidders are through to the next stage of the procurement exercise, including two Foundation Trusts, two bids led by social enterprises and a number of private bidders, such as Capita, Circle, United Health, Serco and Virgin. Meanwhile, in South Gloucestershire, Bath-based social enterprise Sirona, a not-for-profit business, picked up a new £65 million contract to deliver community services against fierce competition.

More recently, in Cornwall, social enterprise Devon Doctors are potentially set to take over a multi-million pound contract from Serco<sup>10</sup>, who originally undercut the co-operative GP consortium in the bidding process but then struggled to deliver an adequate service. The Care Quality Commission’s assessment of Serco’s provisions concluded that services were “not good enough” and the Public Accounts Committee subsequently weighed in on the back of whistle-blowers raising concerns about falsified paperwork.

## Prisons and the ‘rehabilitation revolution’

Last year, we reported how the private sector runs 12 prisons in the UK, accommodating 13% of the nation’s prisoners. The Prison Ombudsman suggests this has since risen to 14 prisons which, according to the Prison Reform Trust, makes the UK the most privatised prison system in Europe. In fact, in the UK there are a higher percentage of prisoners held in private prisons than even the US.

Yet this is a pseudo-market (or what economists would call a ‘monopsonistic oligopoly’) of just three sellers and one buyer – with just Serco, Sodexo and G4S providing competition across the whole of England and Wales. The average ratio of prison staff to prisoners is usually lower in private sector prisons and in 2011, salaries in private sector prisons were 23% less than in the public sector equivalents. Private prisons have also been more overcrowded than public sector prisons every year for the past 14 years.<sup>11</sup>

In May, the Ministry of Justice took the decision to delay the further outsourcing of five prisons to the private sector, following revelations that G4S and Serco were tagging offenders who were either back in prison, had had tags removed, had left the country or had even died. Both firms were then placed under investigation by the Serious Fraud Office while the police are also investigating Serco over its management of prison vans. In July, it emerged that two of three prisons which received the Ombudsman’s lowest rating were managed by the private sector.

Subsequently, G4S’s contract to manage HMP Wolds reverted back into public sector management after 20 years under private management. This followed a report by HM Inspectorate of Prisons in August which concluded that the management of the prison had “clear weaknesses”. In September, while G4S and Serco lost out, Capita was selected as the new preferred bidder to deliver the new £400m six-year contract to take on the tagging service. Similarly, while the tagging scandal put the tender for HMP Northumberland on hold for several months, the tender was eventually won by Sodexo who took on a 15-year contract worth around £250m. 200 jobs at the prison are already under threat. Elsewhere, at HMP Hatfield, three private sector providers are the only names left on the shortlist. Then in October 2013, the BBC reported how the Prison Ombudsman has identified “serious failings” by staff at the UK’s largest privately-run prison, managed by G4S, following the death of an inmate.

<sup>9</sup> <http://www.ft.com/cms/s/0/6424b29e-f60a-11e2-a55d-00144feabdc0.html>

<sup>10</sup> <http://www.bbc.co.uk/news/uk-england-cornwall-24507508>

<sup>11</sup> <http://www.prisonreformtrust.org.uk/PressPolicy/News/vw/1/ItemID/179>



Plans to put the probation service out to the market continued throughout 2013 under Chris Grayling's 'Rehabilitation Revolution' while every probation trust under public management is currently rated as "good" or "exceptional" by the Ministry of Justice. 12 of these trusts look set to pursue the option of spinning out as social enterprises, often motivated in part by staff aiming to avoid being transferred to a private provider over which they have little influence.

### Welfare to Work

In spring 2013, the Department for Work and Pensions carried out an "urgent audit" of Atos' assessments of the capability of disabled benefits claimants. Subsequently, in June, DWP took the decision to bring in additional providers alongside Atos to carry out these Work Capability Assessments (WCA) for disabled benefits claimants, following their judgement that Atos's work was "of unacceptably poor quality" and after the DWP Minister had directed Atos to put in place a "quality improvement plan".

The DWP's £3 - £5 billion Work Programme employs 'prime' contractors, who have a direct relationship with the Government, 90% of which are private sector providers. In June 2013, *The Daily Telegraph* reported that just one in ten people have been helped back to work by the scheme, and statistics reveal that the Work Programme missed every target which the Government set for getting people into jobs. This led to allegations that it was "worse than doing nothing". Others have suggested that the programme has maintained "broadly the same level of performance as previous programmes, with about half the funding." Either way, it seems the programme - like those before it - is failing to support those furthest from the labour market.

As in the previous year, a number of charities and social enterprises have left the scheme, such as Tomorrow's People. As Tony Wilson from CESI suggests, in 2009 the DWP's Third Sector Task Force estimated that the "third sector was delivering around one third of the welfare to work market. Now, according to DWP Ministers, the share is likely to be one fifth at best.<sup>12</sup>" In October 2013, Disability Rights UK became the latest to argue that the Work Programme was not working and at best "is heading for an 88% failure rate with people on out of work disability benefits<sup>13</sup>".

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<sup>12</sup> <http://blogs.ncvo.org.uk/2013/08/05/tackling-long-term-unemployment-tony-wilson/>

<sup>13</sup> <http://www.bbc.co.uk/news/business-24437424>



## Out of the shadows?

So in practice, there are rare glimmers of light for social value among the gloom of private profiteering. But it is in the policy domain where our hope lies with emerging policy changes that recognise the urgent need for change.

The past few decades of public service reform have established that the three key stakeholders at the heart of public services are:

- the taxpayer - via elected representatives, public officials, purchasers, commissioners and budget-holders
- people delivering the services - the staff and employees
- the beneficiaries – variously referred to as service users, customers, patients or clients

But for too long, each of these groups have been, to a large extent, ignored or inadvertently neglected or short-changed by their representatives. What seems to have delayed real change is the stale and narrow 20<sup>th</sup> Century argument about public versus private into which we all seem to have been locked. But this is changing. Public servants, politicians and other leaders are developing a more sophisticated thinking about markets and market intervention. Perhaps the moment this was crystallised in the public narrative was the reporting frenzy that surrounded the Archbishop of Canterbury's proposal to use the assets of the Church he leads to 'compete rather than regulate' the payday lender Wonga, out of the market.

### The taxpayer perspective

Successive governments have ignored or failed to attend to the taxpayer's perspective, deciding to outsource, 'marketise' or privatise services without any real public mandate, not least in the NHS. Taxpayers want and need good public services that deliver value for money. But they also have views on when public, private and social sector management is most likely to deliver this value. PWC polling<sup>14</sup> suggested that citizens prefer public control in most cases, while preferring the not-for-profit sector to lead in arts and cultural services. According to PWC "numerous studies reveal that a more visceral belief that the profit motive is inherently harmful and likely to erode service quality". PWC suggest that the public is "more open to the idea of not-for-profit provision because they (not-for-profits) are perceived as more likely to uphold the public service ethos". This is backed up in polling by a new campaigning group – We Own it – who reported in October 2013 that party policies in favour of public ownership would positively affect voters by 4:1. A ComRes report also concluded that "69 per cent wanted energy renationalised, 70 per cent are against the sell-off of the Royal Mail, 53 per cent believe private sector involvement in the NHS undermines the health service and, as for the railways, a poll conducted last year found that over half the public supported full nationalisation.

Whatever the merits of these views, they have been too long ignored by our elected representatives, rightly or wrongly pursuing an ideological agenda with little democratic mandate. Despite successive governments claiming it is their intention to grow the presence of charities and social enterprises in public service delivery, public bodies have almost no levers at their disposal to ensure that a not-for-profit provider is selected if they do go out to competition. Procurement law has been 'ownership blind' and often restricts purchasers and commissioners to a binary choice between keeping a service 'in-house' or going out to tender. While commentators, such as Sir Stephen Bubb of ACEVO argue that they are not in favour of an increase in private sector provision and merely support a greater role for the voluntary sector - a quite legitimate position in principle - this ignores the reality for public bodies that they can rarely allow for the possibility of the former without also opening up the probability of the latter. Crudely put, the choice is to keep it public or cross your fingers and hope that somehow the social sector wins against the might of private competition. We know that this is not a level playing-field. The

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[http://www.pwc.com/im/en/publications/assets/under\\_pressure\\_securing\\_success\\_managing\\_risk\\_in\\_public\\_services.pdf](http://www.pwc.com/im/en/publications/assets/under_pressure_securing_success_managing_risk_in_public_services.pdf)



size of contracts alone has for years kept all but the largest bidders from getting a foot-hold in many markets, for instance.

But this is changing in three respects. First, inside Cabinet Office, where policy work on the role of SMEs in public services, the foresight of the Government's Chief Procurement Officer and others acknowledge the dangers of oligopolies, are converging to create a much greater recognition of the risks to taxpayers and public service users. Little has changed in practice so far but the will is undoubtedly there. Second, through the Social Value Act, which entered into force earlier this year. For the first time, the Act places a duty on public officials to consider wider social value in the procurement process, empowering pioneering councils across the country – in Liverpool, Durham, Croydon and Torbay, for example – to bring social considerations to the forefront of selecting public service providers.

Third, and potentially most significantly, changes to EU rules are emerging. This summer, the EU provisionally agreed a new set of procurement rules<sup>15</sup> for public bodies purchasing goods and services which the EU Parliament is expected to adopt this autumn.

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### The emerging EU procurement modernisation

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Many of the changes to EU law directly reflect the recommendations made by Social Enterprise UK in our report, *The Shadow State*. In fact, there are some startling parallels. Our report called for, in particular:

- public bodies to include social value in commissioning and procurement;
- performance under previous contracts to be used as a criteria for awarding contract; and
- community interest joint ventures to align incentives between taxpayer, providers and service users.

Echoing these almost exactly, the new rules explicitly set out:

- that environmental and social considerations can be taken into account in the contracting process, for instance, encouraging providers to employ disadvantaged people or long-term job-seekers in delivering the contract;
- how poor performance under previous contracts can be explicitly permitted as grounds for exclusion; and
- a new Innovation Partnership approach where a contractor requires a service or product which is not already available on the market.

Furthermore, the new rules also enable public bodies to reserve the award of many health, social and cultural services contracts exclusively to social enterprises for a time-limited period. This could potentially be the most significant change to procurement practice in decades. With 'public service mutuals' in mind, Francis Maude and his team in the Cabinet Office argued for a 'carve-out' for new contracts to be awarded to providers outside the normal procurement rules for up to 3 years.

We are proud that Social Enterprise UK, along with partners at Co-operatives UK, Social Firms UK and others played a significant role in ensuring these rules protect the taxpayer if services are outsourced. Crucially, and in some small part thanks to our collective interventions, this rule applies only to organisations which have a public service mission, reinvest profits in pursuit of that objective, and are either employee, user or stakeholder owned or managed. We think that these are vitally important conditions for protecting the taxpayer and service users, as well as for potentially giving staff a more engaged role in the management of their services.

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The new rules also encourage contractors to break tenders into smaller lots and introduce a new light-touch regime and higher thresholds for social and health and some other services. The new rules are not yet live, but the Government suggests that contracting authorities should begin preparing the ground for their implementation. The UK is required to bring national laws into line with the new rules within 2 years but is expected to do so during 2014.

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<sup>15</sup> <http://www.bmwi.de/BMWi/Redaktion/PDF/P-R/richtlinie-klassisch-engl,property=pdf,bereich=bmwi2012,sprache=de,rwb=true.pdf>



## The staff side perspective

Second, the views of workers have rarely been heard, with the unions forced to argue for public models from a political or ideological position in order to provide a counterweight to the mainstream political parties, whatever the limitations or failure of such models in certain circumstances and whatever the views of the staff.

Most public servants start their careers trying to make a difference. But sometimes, this motivation can be ground down by bureaucracy, paperwork, endless policy reversals and organisational upheaval. For others, this passion can be dampened as they become accustomed to job security, pensions, habits and 'the way things work'. Furthermore, public budget-holders often have few real incentives to reduce costs and consequently indulge in a shameful annual rush to get money 'out of the door' by the end of the financial year in order to justify and protect their budgets from one year to the next.

So in certain circumstances, social enterprise and independent, multi-stakeholder, asset and mission-locked business models can appeal to staff as a way to take greater control over their own destiny and reconnect them with their public service ethos, while allowing for greater freedom to be creative, enterprising, innovative and deliver better social and economic value. But those interested in this model have often been accused of introducing a "Trojan Horse" or "opening the back door to privatisation. This is an unhelpful distraction from the real battlefield, given the scale of the services being carried out the 'front door' to the private sector through open tendering, as described above.

But this too is changing. Earlier this year, Co-operatives UK and the Trade Union Congress came together to publish best practice guidelines<sup>16</sup> for the creation of public service mutuals, including conditions around, in particular:

- workforce engagement and consultation;
- governance and democratic participation;
- safeguarding of public assets, including an asset lock; and
- employment standards.

For the first time then, this constructive engagement between staff representatives and advocates of the social enterprise model allows for the creation of independent asset-locked and mission locked staff-led social enterprises with the blessing of the union movement at a national level.

## Public service users

Finally, and most tragically, beneficiaries have had almost no voice at all in decisions over who runs their public services. Again, this too is changing. From the Olympics to news stories about the Work Programme, scandals in care homes and more, service users are starting to have their frustrations heard. On the back of public sentiment, a new campaign called We Own It has introduced the idea of a Public Service Users Bill, intended to give the beneficiaries of public services a greater say in decisions which affect them. It is early stages in the development of the Bill and while it is likely to evolve as interest in the idea mounts, the idea at its heart that public service users must have their voice heard is one which is hard to ignore.

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<sup>16</sup> [http://www.uk.coop/sites/storage/public/downloads/tuc\\_co-operatives\\_uk\\_guidance\\_0.pdf](http://www.uk.coop/sites/storage/public/downloads/tuc_co-operatives_uk_guidance_0.pdf)



## Conclusion

In practice, the shadows around public services seem to be darkening with each news story. But in policy terms, there are a number of promising signs that public services might soon emerge from the grey.

We are moving towards a policy landscape where first, elected representatives and their officials are increasingly given the flexibility to explore what they can achieve for the people they represent. Second, workers' representatives are becoming more familiar and less suspicious of asset-locked and mission-locked social enterprises. And some are starting to see the possibilities for a new era of empowerment of our public sector professionals and workers. Finally, public service users may be given some influence over who delivers the services which are meant to benefit them. Some of the people we spoke to for this report expressed genuine hope for increasingly democratised public services employing tools like the Social Value Act.

This policy landscape is being shaped by a seemingly unlikely coalition of EU lawmakers, the trade union movement, Cabinet Office Minister Francis Maude and Lord Young, an individual Conservative MP and frustrated citizens across the country waking up to the flaws in existing models. This broad church shows that we may be moving slowly beyond a tired conflict between 20<sup>th</sup> century concepts of left versus right, pro-business versus anti-business and staff-side versus management-side towards a constructive recognition that we simply have to change the way we spend taxpayers' money in the common interest.

We believe that the stars are aligning to shine a light on a model which goes beyond the traditional debate between public and private, enabling greater innovation and entrepreneurial approaches while retaining a public service ethos.

We stand by the recommendations we made in *The Shadow State*, which are more important than ever in ensuring social value is at the heart of our public services, while greater transparency can help safeguard services where the private profit motive looks set to remain in play.

### Recommendation 1

Despite a promising start following the introduction of the Public Services (Social Value) Act and welcome accompanying changes to EU law, we still believe the Act should be strengthened. This is also supported across the political spectrum, for example by, among others, Chris White MP and Hazel Blears MP. In particular, that:

- public bodies should be obliged to account for how social value is generated in commissioning and procurement;
- the Act should be extended to apply to the purchasing of goods and works and the management of assets, including investments and disposals of capital, land and other assets ;
- the Act should be supported with Statutory Guidance; and
- the Act should be given greater 'teeth' to ensure its implementation.

### Recommendation 2

The Freedom of Information (FOI) Act and the powers that support transparency urgently need reviewing. FOI powers should be extended to companies delivering public services (taking into account proportionality and appropriate timeframes)

### Recommendation 3

An independent contracting oversight body should be established to scrutinise contracting decisions and prevent unfair competition, with sufficient weight and power to challenge and overturn departmental decisions and to issue penalties.



#### **Recommendation 4**

The EU has made a welcome start in clarifying that performance under previous contracts can be explicitly weighed up as part of the decision-making process in procurement decisions. This now needs to become de rigeur when public authorities evaluate tenders.

#### **Recommendation 5**

Open book accounting should be rolled out for all public- sector contracts worth more than £250,000.

#### **Recommendation 6**

The new EU rules allow greater flexibility to support the introduction of innovative governance arrangements for public services in the community interest. Public bodies must act on this new flexibility to ensure communities are given a greater influence in the governance of their public services.

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